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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 161 and 165

[USCG-2012-0632 (previously published as CGD01-04-133)]

RIN 1625-AA11

Regulated Navigation Area; Buzzard's Bay, MA; Navigable  
Waterways Within the First Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

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SUMMARY: The Coast Guard announces the availability of a draft Environmental Assessment (EA) considering the reasonably foreseeable environmental impacts and socioeconomic effects of implementing a Regulated Navigation Area in Buzzard's Bay, MA. We request your comments on the draft EA.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0632 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.  
Department of Transportation, West Building Ground Floor, Room  
W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9  
a.m. and 5 p.m., Monday through Friday, except Federal holidays.  
The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods.  
See the "Public Participation and Request for Comments" portion  
of the SUPPLEMENTARY INFORMATION section below for instructions  
on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. John Mauro, Coast Guard  
First District Waterways Management Branch, telephone 617-223-  
8355, e-mail [John.J.Mauro@uscg.mil](mailto:John.J.Mauro@uscg.mil) or Mr. Luke Dlhopsky, Civil  
Engineering Unit, Environmental Protection Specialist, telephone  
401-736-1743, email [Lucas.A.Dlhopsky@uscg.mil](mailto:Lucas.A.Dlhopsky@uscg.mil).

SUPPLEMENTARY INFORMATION:

Authority: This Draft Environmental Assessment has been  
prepared in accordance with the National Environmental Policy  
Act (NEPA) (42 United States Code (USC) §§4321 et. seq.);  
Council on Environmental Quality (CEQ) Regulations for  
Implementing NEPA (40 Code of Federal Regulations (CFR) §§1500-  
1508) and associated CEQ guidelines; Department of Homeland  
Security Management Directive 5100.1, Environmental Planning

Program; and United States Coast Guard (USCG) Commandant Instruction (COMDTINST) M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

#### Public Participation and Request for Comments

We encourage you to submit comments and related material on the draft EA. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG-2012-0632) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Notices" and insert "USCG-2012-0632" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your

comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments and draft EA: To view the comments and draft EA, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2012-0632" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Additionally, the EA can be found online at:  
<http://www.uscg.mil/d1/prevention/EnvironmentalAssessment.asp>

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union,

etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### Background and Purpose

On August 30, 2007 the USCG published a Final Rule to implement amendments to the existing Regulated Navigation Area (RNA) (2007 Final Rule) applicable to First Coast Guard District waters. (72 FR 50052; corrected by 72 FR 70780) The purpose of these amendments was to further reduce the probability of an incident that could result in the discharge or release of oil or hazardous material, or cause serious harm, to navigable waters of the United States. As part of the process to implement the 2007 Final Rule, the USCG prepared a Categorical Exclusion Determination as defined in its Agency Procedures for Implementing the National Environmental Policy Act. In a ruling on May 17, 2011, the 1st U.S. Circuit Court of Appeals determined that the USCG "failed to comply with its obligations under the National Environmental Policy Act" when it failed to prepare an Environmental Impact Statement (EIS) or an Environmental Assessment (EA).

The Coast Guard has completed a draft EA in order to cure the procedural deficiency. This analysis indicates that an Environmental Impact Statement (EIS) will not be necessary for implementation of any of the action alternatives. The Coast

Guard anticipates that a Finding of No Significant Impact (FONSI) will be appropriate for implementation of the 2007 Final Rule preferred alternative.

We are seeking public input on the draft EA, including comments on the completeness and adequacy of the document, and on the measures and operating conditions described in the EA as alternatives designed to reduce or eliminate potential environmental impacts. The Coast Guard will consider public comments on the EA in determining the preferred alternative and whether to issue a Finding of No Significant Impact (FONSI), or to conduct additional NEPA analysis.

Dated: July 18, 2012

D. B. Abel  
Rear Admiral, U.S. Coast Guard  
Commander, First Coast Guard District

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